



## **ASSOCIATION HEALTH PLANS FAQ**

### **What is an Association Health Plan (AHP)?**

- The U.S. Department of Labor (DOL) released a new rule on Association Health Plans in June 2018. The rule creates a new “pathway” for employers to form an Association Health Plan offering more flexibility than previously existed. Association Health Plans are group health plans that employer groups and associations offer to provide health coverage for employees.

### **Who is allowed to join to form an AHP?**

- Corporations, partnerships, and limited liability companies (LLCs) can generally form an association to create an AHP. For the first time, working owners without other employees (including sole proprietors) and their families are eligible to join AHPs under the new rule.

### **What new options are created as a result of the new rule for AHPs?**

- Under the new rule, association members do not need to be in the same business or industry but must meet new “commonality of interest” rules. Association members must have at least one of the following in common:
  - Trade, industry, line of business or profession;
  - Principal place of business in the same state, city or county; or
  - Principal place of business in the same metropolitan area (which could include more than one state)
- An association can now form with the provision of health care benefits to its members being the primary purpose for which an association is formed. However, this cannot be the only purpose of the association. There still must be at least one substantial business purpose. A substantial business purpose is considered to exist if the entity would be a viable association even in the absence of sponsoring a health plan.
- Associations can allow working owners to join them, but are not required to do so.

### **What are the rules for working owners under the new rule?**

- Working owners are sole proprietors who do not have any employees. In order to qualify, working owners must:
  - Work at least 20 hours per week or 80 hours per month, or
  - Have earnings from the business of at least enough to pay the cost of the AHP premium.

### **When do AHPs become effective?**

- The new rule has established three effective dates for AHPs:
  - 9/1/18 - Fully-insured plans
  - 1/1/19 - Existing self-funded plans
  - 4/1/19 - New self-funded plans

**If the Idaho Department of Insurance (DOI) approves an AHP, will you allow them to be effective on 9/1/18?**

- The DOI anticipates that newly submitted, fully-insured AHPs can be made effective 9/1/18 as long as the AHP fits within the criteria for establishing a bona fide association as stated in the new DOL rule. We don't anticipate the new rule will cause much change to the DOI's process of reviewing and approving fully-insured group health plans filed by insurance carriers. Please note the DOI will diligently review all documents in an expeditious manner. However, depending on the number of submissions and completeness of submissions the time for approval will vary.

**Since federal guidelines state AHPs can be formed by non-industry specific AHPs, do you have any problem with a chamber of commerce creating an AHP as done in other states?**

- The DOI doesn't anticipate problems with a chamber of commerce creating a fully-insured AHP as long as the association qualifies as a bona fide association under the new DOL rule. The Rates and Forms Section of the DOI requires the insurer to provide copies of the association's bylaws and articles of incorporation as part of the review process. Under [Idaho Code § 41-2202\(2\)](#), the association's organizational documents are reviewed to verify that the association "has been organized and is maintained in good faith for purposes other than that of obtaining insurance."

**Will fully-insured AHPs be required to have a trust document and board of trustees to oversee the AHP?**

- Organizational documents for a fully-insured AHP will be reviewed to check that the association is properly formed and maintains a board of directors, but a trust document is not required under Idaho Code for fully-insured group health plans. However, if a fully-insured association subsequently decides to become self-funded, the association would then need to execute and provide a trust document to the DOI and would need to comply with the remaining requirements of [Title 41, Chapter 40, Idaho Code](#). Among those requirements, a self-funded AHP must create a separate trust by executing a trust document and must form a separate board of trustees for the trust, independent from the board of directors of the association. The AHP would become the sponsor of the new self-funded plan maintained by the trust.

**What licenses are required to sell or assist with AHPs?**

- In general, for fully-insured plans a producer or agent license with a disability or health line of authority would be required for an insurance agency or individual to sell, solicit, or negotiate insurance with associations or AHPs. For self-funded, and fully-insured plans, a Third Party Administrator (TPA) license would be required in addition to a producer license to perform certain functions. TPAs are required to be licensed under [Title 41, Chapter 9, Idaho Code](#) if an entity "directly or indirectly underwrites, collects charges or premiums from or adjusts or settles claims on residents of this state in connection with life, annuity or health insurance coverage offered or provided by any insurer."
- Any TPA, if other than the trustee of a self-funded AHP, must comply with the requirements for TPAs set forth in [Title 41, Chapter 9, Idaho Code](#) including the requirement to be registered with the DOI.

**What are the requirements to create a fully-insured AHP?**

- Carriers submitting AHPs must comply with all federal and Idaho requirements for the submission of group health insurance plans (see [Idaho Code 41-1812](#) and [41-1813](#) for the

filing requirements). For AHPs subject to Idaho's large employer insurance laws, the plans must comply with [Title 41, Chapter 22, Idaho Code](#) for the plan requirements.

- Carriers must submit the following to the DOI prior to the association marketing the plan:
  - Copy of association articles of incorporation, partnership agreement, firm documents, bylaws, etc.;
  - Narrative documenting the activities and benefits provided by the association to members which are not insurance related;
  - Insurance policy, certificate, riders, endorsements, disclosures and applications;
  - Copies of all insurance-related sales, marketing and advertising materials;
  - A description of how the product will meet non-discrimination requirements regarding the acceptance and rating of employers; and
  - The counties and/or zip codes making up the AHP service area.

#### **What are the requirements to create a self-insured AHP?**

- All AHPs, including those formed under the new rule and regardless of whether they are fully- insured or self-funded, are Multi-Employer Welfare Associations (MEWAs). All MEWAs and AHPs which choose to be self-funded must comply with all requirements of [Title 41, Chapter 40, Idaho Code](#) and [IDAPA 18.01.27](#) . Detailed instructions, along with the necessary forms, are available at the Department's website at <https://doi.idaho.gov/Company/SFHCP/Single> .
- Some of the notable requirements include:
  - Registration with the DOI, including the provision of the application form and all other required forms and documentation,
  - Formation of a trust and the appointment of a trustee to manage and administer the AHP,
  - Maintenance of actuarially sound rates, reserves, and minimum surplus,
  - Submission of annual and quarterly financial statements
  - Filing of the annual statement of taxes and fees, along with payment of the tax of 4¢ per month per beneficiary working or residing in Idaho.